

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

Michael Dilworth, Katrina Jones, James Pileggi & Shawn Watson

DEFENDANTS

A. Lee Cook Hauling, Inc.

(b) County of Residence of First Listed Plaintiff **Montgomery**
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant **Montgomery**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) Attorneys (Firm Name, Address, and Telephone Number)

Patrick T. Duffy, DUFFY TRIAL, P.C. (phone. 484-250-4654)
100 Regency Dr., Audubon, PA 19403 (email: Patrick @DuffyTrial.com)

Attorneys (If Known)

Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)
29 U.S. Code § 216(b)

Brief description of cause:

Unpaid overtime compensation.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

03/18/2019

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAR 18 2019

G. JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 12 W. 6th St, Bridgeport, PA 19405; 914 Senator Rd, Norristown, PA 19403, 941 Kenney Rd, Lower Pottsgrove, PA 19464

Address of Defendant: 643 Pennsfield Dr, Hatfield, PA 19440

Place of Accident, Incident or Transaction: Hatfield, PA

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when Yes is answered to any of the following questions

1	Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
2	Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
3	Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4	Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE 3/18/19

Patrick T. Duffy
Attorney-at-Law / Pro Se Plaintiff

92899

Attorney I D # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1 Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2 FELEA
- ☐ 3 Jones Act-Personal Injury
- ☐ 4 Antitrust
- ☐ 5 Patent
- ☒ 6 Labor-Management Relations
- ☐ 7 Civil Rights
- ☐ 8 Habeas Corpus
- ☐ 9 Securities Act(s) Cases
- ☐ 10 Social Security Review Cases
- ☒ 11 All other Federal Question Cases (Please specify) _____

B. Diversity Jurisdiction Cases:

- ☐ 1 Insurance Contract and Other Contracts
- ☐ 2 Airplane Personal Injury
- ☐ 3 Assault, Defamation
- ☐ 4 Marine Personal Injury
- ☐ 5 Motor Vehicle Personal Injury
- ☐ 6 Other Personal Injury (Please specify) _____
- ☐ 7 Products Liability
- ☐ 8 Products Liability Asbestos
- ☐ 9 All other Diversity Cases (Please specify) _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Patrick T. Duffy, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought

DATE 3/18/19

Patrick T. Duffy
Attorney-at-Law / Pro Se Plaintiff

92899

Attorney I D # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Michael Dilworth, Katrina Jones,
James Pileggi & Shawn Watson

v.

A. Lee Cook Hauling, Inc.

CIVIL ACTION

NO.

19-1127

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

3/18/19
Date

Patrick T. Duffy
Attorney-at-law

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Attorney for Plaintiffs

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MICHAEL DILWORTH, KATINA JONES,
JAMES PILEGGI AND SHAWN WATSON

Plaintiffs,

v.

A LEE COOK HAULING, INC.

Defendant.

CIVIL ACTION

NO. 19-1127

JURY TRIAL

COMPLAINT

Plaintiffs, Michael Dilworth, Katina Jones, James Pileggi and Shawn Watson, bring this lawsuit against A. Lee Cook Hauling, Inc. seeking all available relief under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§201, et seq., and the Pennsylvania Minimum Wage Act ("PMWA"), 43 P.S. §§ 333.101, et seq.

JURISDICTION AND VENUE

1. Subject matter jurisdiction over the FLSA claim is based on 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.
2. Subject matter jurisdiction over the PMWA claim is based on 28 U.S.C. § 1367.
3. Venue is based on 28 U.S.C. V 1391.

PARTIES

4. Plaintiff, Michael Dilworth, is an adult resident of the Commonwealth of Pennsylvania residing at 12 West 6th Street, Bridgeport, Pennsylvania 19405.
5. Plaintiff, Katina Jones, is an adult resident of the Commonwealth of Pennsylvania residing at 12 West 6th Street, Bridgeport, Pennsylvania 19405

6. Plaintiff, James Pileggi, is an adult resident of the Commonwealth of Pennsylvania residing at 914 Senator Road, Norristown, Pennsylvania 19403.

7. Plaintiff, Shawn Watson, is an adult resident of the Commonwealth of Pennsylvania residing at 941 Kenney Road, Lower Pottsgrove, Pennsylvania 19464.

8. Defendant, A. Lee Cook Hauling Inc., is a business corporation organized under the laws of Pennsylvania with a Pennsylvania Entity Number of 4259602. A. Lee Cook Hauling Inc. was created on April 7, 2014 with a registered business address of 643 Pennfield Drive, Hatfield, Pennsylvania 19440.

9. Defendant employed the Plaintiffs as truck drivers hauling goods, materials or property of others, exclusively in the Commonwealth of Pennsylvania as the fleet of trucks operated by Defendant were not apportioned to leave the Commonwealth.

FACTS

10. A. Lee Cook Hauling, Inc. is a commercial entity operating a fleet of five (5) dump trucks registered in the Commonwealth of Pennsylvania.

11. None of the trucks in the fleet were apportioned to leave the Commonwealth as A. Lee Cook Hauling, Inc. chose not to get apportioned tags in order to operate in interstate commerce.

12. Plaintiff, James Pileggi, was employed by Defendant as a truck driver from 2013 through early 2019.

13. Plaintiff, Michael Dilworth, was employed by Defendant as a truck driver from 2015 through early 2019.

14. Plaintiff, Katina Jones, was employed by Defendant as a truck driver from 2015 through early 2019.

15. Plaintiff, Shawn Watson, Plaintiff, Michael Dilworth was employed by Defendant as a truck driver from 2017 through March 2018.

16. Plaintiffs were paid an hourly rate for all hours worked.

17. Plaintiffs were required to submit time cards to their dispatcher for the hours worked for Defendant.

18. Plaintiffs routinely worked in excess of forty (40) hours per week.

19. However, Plaintiffs were never paid an overtime rate for each hour worked in excess of forty (40) hours in a workweek.

20. Plaintiffs never left the Commonwealth of Pennsylvania while working for Defendant.

21. Defendants improperly classified each of the Plaintiffs as exempt from federal and state overtime laws.

22. The FLSA and the PMWA generally require that employees receive extra overtime pay (calculated at 150% of the regular pay rate) for hours worked over forty (40) in a seven (7) day week. See 29 U.S.C. § 207(a)(2); 43 P.S. §333.104(c).

23. This lawsuit alleges the Defendant violated the FLSA and PMWA by failing to pay adequate overtime compensation to Plaintiffs during weeks Plaintiffs work hours exceeded the forty (40) hour overtime threshold.

24. The Defendant's failure to properly classify Plaintiff as non-exempt and entitle to overtime pay was willful and a reckless disregard of the mandates of the FLSA and PMWA.

COUNT I (Alleging Violations of the FLSA)

25. All previous paragraphs are incorporated as though fully set forth herein.

26. The FLSA generally requires that employees receive extra overtime pay (calculated at 150% of the regular pay rate) for hours worked over 40 in a 7-day week. See 29 U.S.C. § 207(a)(2).

27. The Defendant violated the FLSA by failing to pay overtime based on the hours that Plaintiffs spent working for Defendant.

COUNT II (Alleging Violations of the PMWA)

28. All previous paragraphs are incorporated as though fully set forth herein.

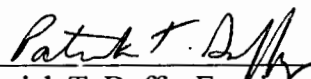
29. The PMWA generally requires that employees receive extra overtime pay (calculated at 150% of the regular pay rate) for hours worked over 40 in a 7-day week. See 43 P.S. § 333.104(c).

30. Defendant violated the PMWA by failing to pay overtime based on the hours that Plaintiffs spent working for Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs seek: (a) unpaid overtime compensation; (b) prejudgment interest; (c) liquidated damages (available under FLSA only); (d) reasonable litigation costs, expenses, and attorney's fees; and (e) any other relief as the Court deems just and proper.

Respectfully,



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Date: March 18, 2019